



SENATE AGRICULTURE

EXHIBIT NO. 12

DATE 3-17-09

BILL NO. HB 445

COOPERATION • EDUCATION • LEGISLATION

March 2009

Members of the Senate Agriculture Committee:

I'm writing regarding HB 445, known as the Montana Farmer Protection Bill, sponsored by Rep. Betsy Hands (D-Missoula). This bill had a fact sheet handed to members of the House of Representatives, and which may be distributed to you in the hearing before you. This fact sheet, with the title "HB 445 – Patented Plants," is misleading and was signed by J.D. Lynch, representing some of the Agriculture Coalition members.

Montana Farmers Union wants to be perfectly clear in our continued support of this bill, which would establish state law relating to patented plants in agriculture. For at least 10 years our membership is clear in its support and its desire to protect farmers and ranchers from liability, should they unknowingly acquire or possess patented seeds or plants.

First, they want to be sure there is a crop sampling protocol in place. Why would anyone oppose a protocol that would require written permission for sampling and violating your private property rights? This bill sets up such a process for protection of all agriculture producers.

Second, a critical piece of this legislation is that of establishing a venue for legal action in the case of an alleged patent infringement. This bill provides that any case of alleged patent infringement would be tried in Montana courts, rather than the company's home state, which would place a huge burden on the farmer who would have to travel across the country, obtaining out-of-state counsel and the expense of defending himself.

You are aware that some other members of the Agriculture Coalition are on the other side of this issue for their own reasons. Montana Farmers Union believes that this legislation best protects ALL farmers and ranchers, be they conventional or organic growers and is in the best interest of Montana. It will be said, "there has not been a case in Montana." But I ask, why wait until there is one to take positive action? We urge you to vote YES on this important bill without amendment, and speak for all segments of Montana's #1 industry – Agriculture.

Sincerely,

Alan Merrill
President

Sunday, March 15, 2009

A PUL

Critics sow doubt as 'Farmer Protection Act' hearing nears

By JOHN S. ADAMS
Tribune Capitol Bureau

HELENA — Arlo Skari's family doesn't grow genetically modified crops on their farm north of Chester, but Skari said he doesn't want multinational agricultural biotechnology companies suing him to prove it.

"I've been aware for quite some time of companies like Monsanto coming down hard on farmers when they find these patented genetically modified seeds growing in a farmer's field when the farmer didn't know they were there," Skari said.

That's why he is supporting House Bill 445, dubbed the Montana Farmer Protection Act.

Depending on which side of the issue people stand, HB 445 is either a measure designed to protect innocent Montana farmers from legal harassment by major corporations or it's part of a plot by environmentalists to undermine the use of biotech crops in the state and legalize seed piracy.

On Tuesday, the Senate Agriculture Committee will hear all sides of the argument when it takes up the measure, introduced by Rep. Betsy Hands, D-Missoula.

Hands said her bill lays out a legal framework by which companies such as Monsanto Company — the world's largest producer of genetically modified seeds — can pursue accusations of seed piracy while protecting farmers who unknowingly end up with patented genetic materials on their land.



Tuesday hearing

The Senate Agriculture Committee is scheduled to hear arguments on HB 445 at 3 p.m. Tuesday in the Capitol. The House passed the measure last month.

Inside

Utilities lining up to counter claims that proposed legislation will stall renewable project development in Montana /3M

Online

For more Legislature, go to www.gtrib.com/leg. You'll also find The Lowdown, a Tribune Capitol Bureau news blog that looks behind the scenes.

"It actually gives access to patent holders to sample crops," Hands said. "I think that's really important to recognize. We're not restricting patent holders. We're actually giving them a legitimate way to sample crops that they suspect may have their patents."

The industry sees the bill in a far different light.

See ACT, 6A

ACT: 'Farmer Protection' or license to steal

FROM 1A

"It restricts the ability of patent holders and the legal system to enforce patent-protection laws," said North Dakota farmer Al Skogen, president of Growers for Biotechnology and a major supporter of Monsanto's biotech products. "It really opens the door for farmers to pirate patent seeds and then claim innocence and be exempt from liability."

An Indiana farmer who found himself on the receiving end of Monsanto's accusations of seed piracy said that if it wasn't for a farmer protection law in his state, he may have faced legal costs that would have buried his family farm.

David Runyon spent years fighting accusations that he illegally planted Monsanto's patented Roundup-Ready soybeans on his 900-acre farm. The seeds were modified to resist Monsanto's popular and widely used herbicide Roundup. Runyon said he never planted Monsanto's genet-

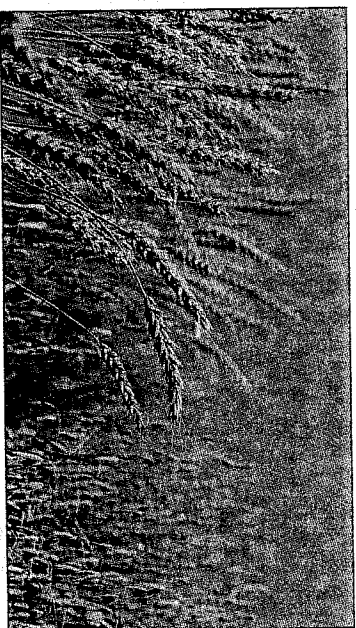
cally modified seeds on his property, adding he has records and receipts to prove it.

He said the Indiana farmer protection law did two things to help save his farm. First, it prevented Monsanto's investigators from coming onto his property to sample crops without his permission. Secondly, it required any legal action against him or his family to take place in an Indiana federal court rather than a courtroom in St. Louis, where Monsanto's headquarters are located.

"Indiana has a farmer protection bill that passed in 2003. Before that bill, all they would have done is filed out in St. Louis in federal court," Runyon said.

Runyon said that without the farmer protection law, the legal fees, travel expenses and time away from his young family would have been enough to destroy his farm.

He said that after Monsanto investigators visited his home in July of 2004, he tested his soybean crop to see if it had any



Monsanto genetics. It turns out it did, but not because he planted Monsanto's seeds.

"I'm using public varieties. One variety comes out of the state of Illinois and two varieties from Ohio State University," Runyon said.

It's difficult—if not impossible—to prevent the genetics of crops in one field from contaminating the genetics of crops in another one. Cross pollination by wind, insects, animals or major weather

can afford that?" In Runyon's case, Monsanto eventually gave up its pursuit.

"They never had any evidence other than the receipts I gave them," he said.

Skogen said backers of HB 445 are trying to legalize seed piracy. He said companies such as Monsanto have no interest in suing the very customers it is trying to sell its products to. He said companies spend hundreds of millions of dollars introducing genetic traits into crops in order to create higher yields and higher profitability for farmers, so they have to protect their investment from illegal piracy.

If HB 445 passes, Skogen believes it will have a detrimental impact on Montana farmers who might otherwise benefit from the private genetic research conducted by companies such as Monsanto.

"The public cannot afford to fund all research. We need private investment. This research is extremely expensive. If the laws

prohibit (companies) from protecting their patents and recouping the costs of research, they will simply refocus their efforts somewhere else," Skogen said.

Skari said he plans to travel to Helena on Tuesday to support HB 445.

"Legal logic tells you that if somebody affects your grain or your property negatively, then they should be the ones held liable, but what has happened is that the companies have taken it and put the liability on the farmer, an unknowing recipient of someone else's actions," Skari said. "This bill just protects the farmer from liability from seed companies."

The House passed HB 445 by a wide margin last month. The Senate Agriculture Committee is scheduled to hear arguments on the measure at 3 p.m. Tuesday in the Capitol.

Reach Tribune Capitol Bureau Chief John S. Adams at 442-9493, or jadams@greatfalls-tribune.com